IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN
AT JAIPUR BENCH JAIPUR

::JUDGMENT::

D.B. CIVIL SPECIAL APPEAL (W) NO.643/2007

Rajasthan State Road Transport Corporation, Kota
Vs.
Kailash Chand Sharma & Anr.

Date of Order :: September 10, 2007.

HON'BLE THE ACTING CHIEF JUSTICE MR.J.M. PANCHAL
HON'BLE MR.JUSTICE MOHAMMAD RAFIQ

Mr. Virendra Singh Yadav for the appellant.
Mr. Suresh Kashyap for the respondent no.1.

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The instant appeal is directed against the order dated January 17, 2007 rendered by the learned Single Judge in S.B. Civil Writ Petition no.4200/2002 by which the appellant is directed to make the payment of last wages drawn from the date of award within a period of 30 days from the date of the order and thereafter, monthly wages of February 2007 on March 07, 2007 as well as monthly wages onwards from March 2007 by 7th of next month to the respondent no.1.

The respondent no.1 was appointed as Conductor on temporary basis on May 02, 1987. The bus in which he was discharging duties was checked on January 21, 1988 and it was found that he had permitted 14 passengers to travel

without issuing tickets. Therefore, his services were terminated on October 01, 1988. He raised an industrial dispute. The Industrial Tribunal by award dated March 07, 2002 directed the appellant to reinstate the respondent no.1 in service. Feeling aggrieved, the appellant has filed S.B. Civil Writ Petition no.4200/2002. The learned Single Judge has admitted the petition and granted stay of operation of the award impugned in the petition by an order dated December 04, 2002. The respondent no.1 moved an application seeking wages in terms of Section 17-B of the Industrial Disputes Act, 1947. The learned Single Judge has allowed the same by the impugned order giving rise to the instant appeal.

The contention that the learned Single Judge could not have directed the appellant to make the payment of last wages drawn from the date of the award under Section 17-B has not been opposed by the learned counsel for the respondent no.1. Even otherwise, on the language of Section 17-B of the Industrial Disputes Act, 1947 such a direction could not have been given. Section 17-B speaks of proceedings pending which means proceedings pending before the High Court. Therefore, respondent no.1 will be entitled to benefit under Section 17-B from the date of filing of the petition. To the said extent, the appeal will have to be accepted.

For the foregoing reasons, the appeal partly succeeds. The direction given by the learned Single Judge to the appellant to make the payment of last wages drawn from the date of the award within a period of 30 days from the date of order is set aside. Rest of the directions contained in the impugned order are upheld. The appeal is allowed to the extent indicated hereinabove. There shall be no order as to costs.

(MOHAMMAD RAFIQ), J. **(J.M. PANCHAL), Actg.CJ.**

Skant/-